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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,986	07/13/2006	Soichiro Kemmochi	SH-0062PCTUS	1706
21254 7590 12/22/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER JENNINGS, STEPHANIE M				
ART UNIT		PAPER NUMBER		
4135				
MAIL DATE		DELIVERY MODE		
12/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,986

Applicant(s)

KEMMOCHI ET AL.

Examiner

STEPHANIE JENNINGS

Art Unit

4135

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 2,6,8,9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____
- 7) ☐ Notices of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date 20060713

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of 1, 3-5, 7, and 10 in the reply filed on November 10, 2008 is acknowledged.
2. Claims 2, 6, 8-9, and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 10, 2008.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both vertical line and plumb bob and reference characters "16" and "18" have both been used to designate jig.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the V-shaped roller groove must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: use of informal language, such as contractions and phrases such as "as the next best thing."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Regarding claims 1 and 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

9. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the claim as drafted whether the V-shaped roller groove or the pinch rollers has the straight-line cross section.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamura et al. US Patent No. 6,742,363 B1.
12. Yamamura anticipates:

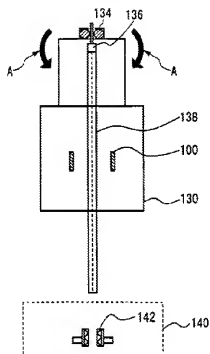


FIG. 6

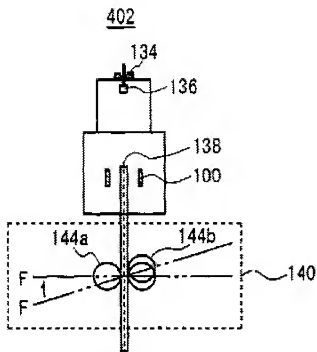


FIG. 10

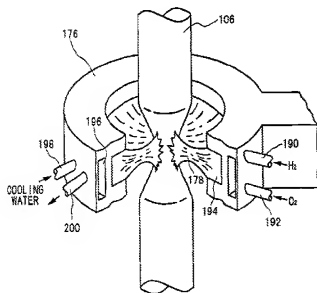


FIG. 19

13. Limitations from claim 1, A method of elongating optical fiber base material (102, figure 5, not shown) comprising: heating and softening base material ingot (102) in such as an electric furnace (176); drawing said ingot (102) with a pair of pinch rollers (144a, 144b, figure 10); and elongating the ingot (102) to make base material rod having a smaller diameter than said ingot (102), wherein a roller groove having a curvature radius which is larger than the outer diameter, and wherein the facing roller grooves (144a, 144b) respectively formed on the surfaces of a pair of said pinch rollers (142, figure 6) nip and draw said base material rod (column 2, lines 26-34).

14. Limitations from claim 5, an apparatus for elongating optical fiber base material (102), which heats and softens base material ingot (102) in such as an electric furnace (176); draws with a pair of pinch roller (144a or 144b); and elongates to make base material rod having a smaller diameter than the ingot (102), comprising said pinch rollers (142) which are made of metal, and respectively have a roller groove (144a, 144b) having a curvature radius which is larger than the outer diameter of said base material rod (column 2, lines 26-34).

15. Limitations from claim 7, the apparatus for elongating optical fiber base material (102) according to claim 5, wherein the surfaces of said pinch rollers (142) are wound and fixed woven fabric made of heat-resistant material to prevent said pinch rollers (142) from directly contacting to base material rod made of metal (column 10, lines 26-28 and 36-41).

16. Yamamura inherently teaches a roller groove with a curvature radius larger than the outer ingot diameter since a roller groove would inherently have a larger curvature diameter than the ingot would for the roller groove to function as a groove.

17. The examiner notes that the applicant has drafted claims 1 and 5 with the use of "or." The examiner is tasked with reading the claims broadly and by reading the disjunctive connector,

only one of the limitations of either the roller groove with curvature radius larger than the outer diameter or the V-shaped roller groove needs to be met to reject the claim.

18. Examiner must give claims their broadest reasonable interpretation, MPEP §2111, “During patent examination, the pending claims must be ‘given the broadest reasonable interpretation consistent with the specification.’ Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, *In re Pratter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969), *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).” Also see *In re Zletz*, 13 USPQ 2d. 1320 (Fed. Cir. 1989).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

21. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

22. Claims 3, 4, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamura as applied to claims 1 and 5 above, and further in view of Japanese Patent Publication 57-121810 A.

23. Yamamura teaches a method and apparatus for elongating an optical base fiber with a set of pinch rollers and electric furnace, but does not teach a laser positioning system. Japanese Patent Publication 57-121810 A abstract does teach this feature.

24. Japanese Patent Publication 57-121810 A abstract teaches:

25. Limitations from claim 3, wherein a positioning adjustment apparatus supporting said pinch rollers is adjusted the position of the apparatus using a vertical line of laser beam or a plumb bob, which is parallel to the traveling direction of the base material ingot, runs through the middle of the heater such as an electric furnace and the center point of the shorter rod, to determine the positions of said pinch rollers (abstract, constitution).

26. Limitations from claim 4, the method of elongating optical fiber base material according to claim 1, wherein a jig comprising an upper board and a cylindrical part is mounted on a pair of pinch rollers, and a positioning adjustment apparatus supporting said pinch rollers is adjusted the

position of the apparatus using a vertical line of laser beam or a plumb bob, which is parallel to the traveling direction of the base material ingot, runs through the middle of the heater such as an electric furnace and the center point of the shorter rod, to determine the positions of said pinch rollers (abstract, constitution).

27. Limitations from claim 10, the method of elongating optical fiber base material according to claim 3, wherein a jig comprising an upper board and a cylindrical part is mounted on a pair of pinch rollers, and a positioning adjustment apparatus supporting said pinch rollers is adjusted the position of the apparatus using a vertical line of laser beam, which is parallel to the traveling direction of the base material ingot, runs through the middle of the heater such as an electric furnace and the center point of the shorter rod, to determine the positions of said pinch rollers (abstract, constitution).

28. The examiner notes that the applicant has drafted claims 3, 4, and 10 with the use of “or.” The examiner is tasked with reading the claims broadly and by reading the disjunctive connector, only one of the limitations of either the laser beam or the plumb bob needs to be met in order to reject the claims.

29. Examiner must give claims their broadest reasonable interpretation, MPEP §2111, “During patent examination, the pending claims must be ‘given the broadest reasonable interpretation consistent with the specification.’ Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, *In re Pratter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969), *In re Morris*, 127 F.3d 1048, 1054-

55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).” Also see *In re Zletz*, 13 USPQ 2d. 1320 (Fed. Cir. 1989).

30. It would have been obvious to one of ordinary skill in the art to combine the invention of Japanese Patent Application Publication 57-121810 A with Yamamura's invention because it is well-known in the art that the use of a laser positioning system provides accuracy in the optical fiber manufacturing process by providing a correction means for the pinch rollers, therefore minimizing potential defects that could occur during processing.

Conclusion

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE JENNINGS whose telephone number is (571)270-7392. The examiner can normally be reached on M-F, 7:30 am-5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William M. Brewster can be reached on (571)272-1854. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Art Unit: 4135

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. J./

Examiner, Art Unit 4135

December 16, 2008

/William M. Brewster/

Supervisory Patent Examiner, Art Unit 4135